

**SAN JOSÉ UNIFIED SCHOOL DISTRICT
MASTER SERVICE AGREEMENT FOR
SPECIAL ENRICHMENT PROGRAMS
ELEMENTARY SCHOOLS**

This Master Service Agreement for Special Enrichment Programs ("Agreement") is made as of the 5 day of August in the year 2019, between the **San José Unified School District** ("District") and **Little Heroes, Inc.** ("Consultant"), a Corporation. The District and Consultant may be individually referred to herein as a "Party" or collectively referred to herein as the "Parties."

WHEREAS, District is authorized by Section 53060 of the California Government Code to contract with and employ any persons for the furnishing of special services if those persons are specially trained and experienced and competent to perform the special services required; and

WHEREAS, the District needs such services and advice at multiple school sites and the Consultant warrants that it is specially trained, licensed and experienced and competent to perform the services required by the District; and

WHEREAS, the Consultant agrees to perform the Services described in this Agreement in accordance with the standards of its profession, to District's satisfaction, and in accordance with this Agreement;

NOW, THEREFORE, the Parties agree as follows:

1. **Services.** Consultant shall furnish to the District the services as described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Services" or "Work"). Consultant shall only perform Services that are authorized pursuant to an executed Purchase Order, **provided by each participating school site ("School").**
2. **Term.** Consultant shall commence providing Services under this Agreement on September 3, 2019, and will diligently perform as required or requested by District as applicable. Unless terminated earlier as provided herein, the term for these services shall expire on June 4, 2020. This Agreement may be extended for an additional term commencing at the expiration of the preceding term on an annual basis to the extent permissible under applicable law. Any such extension of the Term shall be evidenced by a signed amendment to the Agreement.
3. **Submittal of Documents.** Consultant shall not commence performance of any Services under this Agreement until the Agreement has been fully executed and the Consultant has submitted insurance certificates with requested limits listed in Section 12 of this Agreement.

This constitutes the entire Agreement between the District and Consultant supersedes any and all other Agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other agreement, statement or promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding. This Agreement may only be amended in writing executed by both parties and approved by the District's Board of Education.

4. **Compensation.** District agrees to pay Consultant for Services in an amount not to exceed \$30,000, per School, and invoiced to the District in 10 equal monthly installments as Services are actually completed.

Payment shall be made for all undisputed amounts within thirty (30) days after the Consultant submits a detailed invoice to the District's Accounts Payable Department. All invoices must include the purchase order number, failure to provide a detailed invoice with the purchase order number may cause a delay in payment. Credits to any School site will be reflected on the invoice.

5. **Materials.** Consultant shall furnish, at his/her own expense, all labor, materials, equipment, supplies and other items necessary to complete the Services to be provided pursuant to this Agreement. Notwithstanding the foregoing, District shall provide Consultant the following: see School Responsibilities section listed in Exhibit A. All materials provided belong to the District.
6. **Expenses.** District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing the Work except as indicated in Exhibit A.
7. **Independent Contractor.** Consultant, in the performance of this Agreement, shall be and act as an independent contractor. Consultant understands and agrees that he/she and all of his/her employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Consultant shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Consultant's employees.
8. **Standard of Care.**
 - 8.1. Consultant represents that Consultant has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of District. Consultant's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services to California school districts. Consultant's Services will be performed

**SAN JOSÉ UNIFIED SCHOOL DISTRICT
MASTER SERVICE AGREEMENT FOR
SPECIAL ENRICHMENT PROGRAMS
ELEMENTARY SCHOOLS**

with due care and in accordance with applicable law, code, rule, regulation, and/or ordinance.

- 8.2. Consultant hereby represents that it possesses the necessary professional capabilities, qualifications, licenses, skilled personnel, experience, expertise, and financial resources, and it has available and will provide the necessary equipment, materials, tools, and facilities to perform the Services in an efficient, professional, and timely manner in accordance with the terms and conditions of the Agreement.
- 8.3. Consultant shall be responsible for the professional quality, technical accuracy, completeness, and coordination of the Services, and Consultant understands that the District relies upon such professional quality, accuracy, completeness, and coordination by Consultant in performing the Services.
- 8.4. Consultant shall ensure that any individual performing work under the Agreement requiring a California license shall possess the appropriate license required by the State of California. All personnel shall have sufficient skill and experience to perform the work assigned to them.

9. **Originality of Services.** Consultant agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, written for, or submitted to the District and/or used in connection with this Agreement, shall be wholly original to Consultant and shall not be copied in whole or in part from any other source, except that submitted to Consultant by District as a basis for such services.

10. Termination.

- 10.1. **Without Cause by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Consultant only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Consultant. Notice shall be deemed given when received by the Consultant or no later than three (3) days after the day of mailing, whichever is sooner.
- 10.2. **Without Cause by Consultant.** Consultant may, upon sixty (60) days' notice, with or without reason, terminate this Agreement. Upon this termination, District shall only be obligated to compensate Consultant for services satisfactorily rendered to the date of termination. Written notice by Consultant shall be sufficient to stop further performance of services to District. Consultant acknowledges that this sixty (60) day notice period is acceptable so that the District can attempt to procure the Services from another source.
- 10.3. **With Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:
 - 10.3.1. material violation of this Agreement by Consultant; or
 - 10.3.2. any act by Consultant exposing the District to liability to others for personal injury or property damage; or
 - 10.3.3. Consultant is adjudged a bankrupt, Consultant makes a general assignment for the benefit of creditors or a receiver is appointed on account of Consultant's insolvency.
 - 10.3.4. Written notice by District shall contain the reasons for such intention to terminate and, unless within three (3) calendar days after that notice the condition or violation shall cease or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the District may secure the required Services from another Consultant. If the expense, fees, and/or costs to the District exceeds the cost of providing the Services pursuant to this Agreement, the Consultant shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.
- 10.4. Upon termination, Consultant shall provide the District with all documents produced maintained or collected by Consultant pursuant to this Agreement, whether such documents are final or draft documents.

11. **Indemnification.** To the furthest extent permitted by California law, Consultant shall defend, indemnify, and hold free and harmless the District, its agents, representatives, officers, consultants, employees, trustees, and volunteers ("the indemnified parties") from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, including without limitation the payment of all consequential damages ("Claim"), arising out of, pertaining to or relating to, in whole or in part, the negligence, recklessness, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants, or agents directly or indirectly arising out of, connected with, or resulting from the performance of the Services or from any activity, work, or thing done, permitted, or suffered by the Consultant in conjunction with this Agreement. The District shall have the right to accept or reject any legal representation that Consultant proposes to defend the indemnified parties.

12. Insurance.

- 12.1. Consultant shall procure and maintain at all times it performs any portion of the Services the following insurance with minimum limits equal to the amount indicated below:
 - 12.1.1. **Commercial General Liability and Automobile Liability Insurance.** Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that insure against all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising from Consultant's performance of any portion of the Services. (Form CG 0001 and CA 0001)
 - 12.1.2. **Workers' Compensation and Employers' Liability Insurance.** Workers' Compensation Insurance and Employers' Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of section [3700](#) of the California Labor Code, the Consultant shall be required

**SAN JOSÉ UNIFIED SCHOOL DISTRICT
MASTER SERVICE AGREEMENT FOR
SPECIAL ENRICHMENT PROGRAMS
ELEMENTARY SCHOOLS**

to secure workers' compensation coverage for its employees. If any class of employee or employees engaged in performing any portion of the Services under this Agreement are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services. If workers' compensation is not listed on the Consultant's Certificate of Insurance, the Consultant shall sign the Worker's Compensation Certificate attached as an exhibit to this Agreement.

- 12.1.3. **Professional Liability (Errors and Omissions).** Professional Liability (Errors and Omissions) Insurance as appropriate to the Consultant's profession.

Type of Coverage		Minimum Requirement
Commercial General Liability Insurance	Each Occurrence	\$1,000,000
	General Aggregate	\$2,000,000
Automobile Liability Insurance	Each Occurrence – Commercial vehicles	\$1,000,000
	Injury/one death – Personal vehicles	\$15,000
	Injury/multiple death	\$30,000
	Property Damage	\$5,000
Abuse and Molestation Liability	Each Occurrence	\$100,000
	General Aggregate	\$100,000

- 12.2. **Proof of Carriage of Insurance.** Consultant shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverages have been delivered to and approved by the District. Certificates and insurance policies shall include the following:

12.2.1. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."

12.2.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.

12.2.3. An endorsement stating that the District and the State and their representatives, employees, trustees, officers, and volunteers are named additional insureds under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Consultant's insurance policies shall be primary to any insurance or self-insurance maintained by District.

12.2.4. All policies shall be written on an occurrence form, except for Professional Liability which shall be on a claims-made form.

- 12.3. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the District.

- 12.4. **Subcontractors.** Consultant shall require its Subcontractors and any Sub-subcontractors to take out and maintain similar public liability insurance and property damage insurance, and any other insurance required of Consultant or under this Agreement, in a company or companies lawfully authorized to do business in California as admitted carriers, in like amounts and scope of coverage as that required of Consultant hereunder.

13. **Assignment.** The obligations of Consultant pursuant to this Agreement shall not be assigned by Consultant.

14. **Compliance with Laws and District Use Rules.** Consultant shall observe and comply with all rules and regulations of the governing board of the District and all federal, state, and local laws, ordinances and regulations. Consultant shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Services as indicated or specified. If Consultant observes that any of the Services required by this Agreement is at variance with any such laws, ordinance, rules or regulations, Consultant shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Services shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated effective upon Consultant's receipt of a written termination notice from the District. If Consultant performs any Services that are in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Consultant shall bear all costs arising therefrom.

14.1. By providing a signature on the Privacy of Pupil Records Rider page provided as an exhibit on this Agreement Consultant has, unless exempted, complied with the Pupil Records Rider for Digital Records Storage or Digital Educational Software contract requirements Education Code [49073.1](#), Privacy of Pupil Records.

14.2. Consultant's use of the District facilities and property to perform the Services shall be pursuant to the District's existing rules and regulations pertaining to the use of the District facilities and property as may be updated from time to time during the Term. To view the District's [Use of School Facilities](#) policy (code AR 1330), log onto our online portal and perform a search, instructions are in the [Policies and Regulations](#) section of our website: <https://www.sjUSD.org>.

14.3. Before and after school services require a facility use permit reservation for the space needed, using [Facilitron](#).

**SAN JOSÉ UNIFIED SCHOOL DISTRICT
MASTER SERVICE AGREEMENT FOR
SPECIAL ENRICHMENT PROGRAMS
ELEMENTARY SCHOOLS**

15. **Subcontractors.** Consultant may contract for or employ at Consultant's expense, subcontractors to the extent deemed necessary for completion of its Services, licensed as required by applicable law. The names of subcontractors and a detailed scope of the Services to be performed by any subcontractors shall be submitted to the District for approval prior to commencement of Services by a subcontractor. The District reserves the right to reject Consultant's use of any particular subcontractor. District shall not approve any invoice or application for payment submitted that includes costs for Services performed by a subcontractor that has not been approved by District. In the event Consultant contracts with or employs a subcontractor for any portion of the Services, Consultant shall pay all subcontractor invoices within thirty (30) days of receipt or as otherwise agreed to by Consultant and the subcontractor, in compliance with applicable law; all Consultant payments to and records between its subcontractor(s) shall be subject to the audit provisions herein this Agreement. Nothing in the foregoing shall create any contractual relationship between the District and any subcontractor(s) employed by Consultant under the terms of this Agreement. See insurance requirements in section 12.4 in this Agreement.
16. **Permits/Licenses.** Consultant and all Consultant's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of Services pursuant to this Agreement.
17. **Safety and Security.** Consultant is responsible for maintaining safety in the performance of the Services. Consultant shall be responsible to ascertain from the District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.
18. **Employment with Public Agency.** Consultant, if an employee of another public agency, agrees that Consultant will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are being performed pursuant to this Agreement.
19. **Anti-Discrimination.** It is the policy of the District that in connection with all work performed under Service Agreements there be no discrimination against any employee engaged in the work because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status and therefore the Consultant agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code Section [12900](#) and Labor Code Section [1735](#). In addition, the Consultant agrees to require like compliance by all its subcontractor(s).
20. **Fingerprinting of Employees.** The Consultant shall comply with the provisions of Education Code section [45125.1](#) regarding the submission of employee fingerprints to the California Department of Justice and the completion of criminal background investigations of its employees. The Consultant shall not permit any employee to have any contact with District pupils until such time as the Consultant has verified in writing to the governing board of the District that the employee has not been convicted of a felony, as defined in Education Code section [45122.1](#). The Consultant's responsibility shall extend to all employees, subcontractors, agents, and employees or agents of subcontractors regardless of whether those individuals are paid or unpaid, concurrently employed by the District, or acting as independent contractors of the Consultant. Verification of compliance with this section shall be provided in writing to the District prior to each individual's commencement of employment or performing any portion of the Services and prior to permitting contact with any student, by signature on the Consultant Certification page provided as an exhibit on this Agreement if applicable.
21. **District's Right to Audit.** District retains the right to review and audit, and the reasonable right of access to Consultant's and any subcontractor's premises to review and audit, the Consultant's compliance with the provisions of this Agreement ("District's Audit Right"). The District's Audit Right includes the right to inspect, photocopy, and to retain copies, outside of the Consultant's premises, of any and all Work-related records, documents and other information with appropriate safeguards, if such retention is deemed necessary by the District in its sole discretion. The District's Audit Right shall also include the right to interview current or former employees and subcontractors of Consultant with respect to matters or issues under audit. The information obtained pursuant to this section shall be disclosable to third parties as required by applicable law.
 - 21.1. Consultant shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Consultant transacted under this Agreement. Consultant shall retain these books, records, and systems of account during the Term of this Agreement and for three (3) years thereafter.
 - 21.2. Consultant shall, without limitation, permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Consultant and shall conduct audit(s) during Consultant's normal business hours, unless Consultant otherwise consents.
 - 21.3. Consultant shall include audit provisions in any and all of its subcontracts, and shall ensure that provision is binding upon all subcontractors.

**SAN JOSÉ UNIFIED SCHOOL DISTRICT
MASTER SERVICE AGREEMENT FOR
SPECIAL ENRICHMENT PROGRAMS
ELEMENTARY SCHOOLS**

- 21.4. Consultant shall comply with these provisions within fifteen (15) days of the District's written request to review and audit any or all of Consultant's Work-related documents, records and information. The District's Audit Right and Consultant's compliance with the same, shall be at no additional cost to the District.
- 21.5. In the event the District's Audit Right, or an audit by the State Auditor, evidences payments to Consultant not in accordance with the provisions of this Agreement, Consultant shall immediately pay District the amount of said payments not in compliance in addition to all costs reasonably incurred by District in conducting an audit hereunder.
- 21.6. Consultant acknowledges and agrees that the District's Audit Right, pursuant to the foregoing provisions, shall apply to, and may be utilized by the District for the production of, any records or documents subject to disclosure under the California Public Records Act, Government Code § 6250 et seq. ("CPRA"), unless otherwise exempt, and which may include, but are not limited to, records or documents in the District's constructive possession but under Consultant's control regardless if created, sent, received, stored, or maintained in a personal account or device of Consultant or its employees, as prescribed by applicable law. In the event the District exercises District's Audit Right in response to or as part of a request under the CPRA, Consultant agrees to provide District with an affidavit, if and as needed or requested by District, within five (5) days of District's request therefor, that certifies Consultant's search for and production of responsive records subject to disclosure pursuant to the CPRA, if any.
22. **District's Evaluation of Consultant and Consultant's Employees and/or Subcontractors.** The District may evaluate the Consultant in any manner which is permissible under the law. The District's evaluation may include, without limitation:
- 22.1. Requesting that District employee(s) evaluate the Consultant and the Consultant's employees and subcontractors and each of their performance.
- 22.2. Announced and unannounced observance of Consultant, Consultant's employee(s), and/or subcontractor(s).
23. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement.
24. **Disputes.** In the event of a dispute between the Parties as to performance of Services, interpretation of any provision of this Agreement or payment, the Parties shall attempt to resolve the dispute by negotiation and/or mediation, if agreed to by the Parties. Pending resolution of the dispute, Consultant shall neither rescind the Agreement nor stop performance of Services.
25. **Confidentiality.** Consultant and all Consultant's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
- 25.1. **Pupil Records and Information.** Consultant shall perform Services in compliance with the Family Educational Rights and Privacy Act ("FERPA"), the Children's Online Privacy Act ("COPA") and the Student Online Personal Information Protection Act ("SOPIPA"). Consultant shall not use pupil records or information for any purpose other than those required or specifically permitted by this Agreement. Consultant shall immediately notify the District in the event pupil records or information is disclosed to any unauthorized person, or in the event of a [Data Breach](#).
26. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, addressed as follows:
- | | |
|---|---|
| <p><u>San José Unified School District</u>
Purchasing & Contract Management
855 Lenzen Avenue
San José, CA 95126
Tel: (408) 535-6141</p> | <p><u>Little Heroes, Inc.</u>
5669 Snell Avenue #275
San José, CA 95123
Tel: (408) 679-7779
Attn: Raymond Cook</p> |
|---|---|
- Any notice personally given or sent by facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.
27. **Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.

**SAN JOSÉ UNIFIED SCHOOL DISTRICT
MASTER SERVICE AGREEMENT FOR
SPECIAL ENRICHMENT PROGRAMS
ELEMENTARY SCHOOLS**

28. **California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the California County in which the District's administration offices are located.
29. **Waiver.** The waiver by either Party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
30. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
31. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.
32. **Authority of Executing Officer or Party.** By signing below, the signer represents that it has the legal right, power, and authority to enter into and execute this Agreement and to bind the Party on whose behalf the signer executes this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

San José Unified School District

Little Heroes, Inc.

Date: 9/3/2019

Date: 9/3/2019

By: 
BED453E56F68421...
Print Name: Steve Adamo

By: 
F468018BCA784BC...
Print Name: Raymond Cook

Title: Director

Title: Director of Operations



**SAN JOSÉ UNIFIED SCHOOL DISTRICT
MASTER SERVICE AGREEMENT FOR
SPECIAL ENRICHMENT PROGRAMS
ELEMENTARY SCHOOLS**

**“EXHIBIT A”
DESCRIPTION OF SERVICES**

1. Rescue Recess & Fun Fitness

Little HEROES knows the value of providing youth with fun and inclusive games to play at recess time. We aim to provide this atmosphere at elementary schools everywhere. We will organize your yard and train your staff to be more involved during recess times. We also provide youth leadership opportunities which focus on character development, and allow students to gain more pride in their school. Our goal is to establish a carnival type atmosphere. With fun; organized games and safe pathways to walk and move from game to game.

2. Playground HEROES

Our coaches will communicate with teachers and administration and select 20-30 4th/5th grade students to be our Playground HEROES. We will train these students after-school while providing leadership opportunities to them. We focus on teaching specialized skills to further allow them to make an immediate impact in their school. These Playground HEROES will be given trainings on rules to the yard, all recess games and activities, as well as conflict resolution techniques and public speaking which will further boost their confidence. These Mini Coaches will be responsible for maintaining a well organized and inclusive recess yard, while setting impeccable examples both inside and outside of the classroom. Our GOAL is to have each of these future leaders leave their elementary schools ready to step up and continue that path at the next level.

3. Classroom Game Times

We use class game times as another tool in creating a structured and organized yard. Our on-site coach will pull each class out at least once every two weeks for a 30-40 minute class game time. During these times we teach students the rules to our core games as well as provide a chance to engage in new and exciting games focused on communication, collaboration, and creativity. We will work with your staff to find out what standards and curriculum you will be using over the course of the year and devise games which will reflect this curriculum. These games will then be available as an additional option during recess and lunch times.

4. Peer Mentorship Program/Big Buddy Program

Our Peer Mentorship Program focuses on a supreme effort in developing our youth and providing opportunities for a brighter future. This "Big Buddy" program will enable 4th and 5th grade students the opportunity to build relationships and mentor the kinder and 1st grade students on-site. We typically like to target students struggling, whether academically or with behavior. Our peer leaders will meet, guide, encourage, and support their little buddies both inside and out of the classroom. Our big buddies will train after-school each month with the on-site coach and learn communication techniques, as well as activities they could use with their little buddies inside the classroom.

5. Little HEROES Sports Tournaments

One avenue in which we provide a fun and healthy environment for children to thrive, stay active, and develop vital social skills is through our sports tournaments. Children from various school districts and social backgrounds throughout the Bay Area engage in a myriad of sports including basketball, soccer, flag football, and even street hockey! Our on-site coaches diligently work with the children; teaching them the value of teamwork, accountability, effort, and sportsmanship. We feel that is extremely important that children learn to both win and lose graciously and respectfully. Our Tournaments help to ensure just that.

**SAN JOSÉ UNIFIED SCHOOL DISTRICT
MASTER SERVICE AGREEMENT FOR
SPECIAL ENRICHMENT PROGRAMS
ELEMENTARY SCHOOLS**

**“EXHIBIT A”
DESCRIPTION OF SERVICES**

Little Heroes Responsibilities:

1. All five components are included with the full program price. Before-school recess will start the day off. Followed by 2-3 class game times each day, and all recesses. After-school your on-site coach will have their youth mentor program, sports league practices, playground heroes trainings, and occasional staff meetings to keep constant communication and allow a venue to receive feedback with the staff and administration.
2. Every on-site coach will have each program component up and running at a specified time as agreed to by the Little Heroes directors.
3. Services will be provided every school day (180 instructional days) and each on-site coach must sign-in and sign-out at the front office using the Envoy System.
4. Each on-site coach must communicate via email or phone call to School Secretary & Principal if a scheduled day is cancelled. Coach will make up the cancelled day within two weeks of absence. If coach cannot make-up the cancelled day, Consultant shall prorate the amount on the invoice using the daily rate of \$166.67.
5. In the event a coach is removed from the program, the School will allow up to 10 days for the Consultant to provide an adequately trained replacement without a financial penalty. Any days after 10 will be prorated and adjustments to the amount on the invoice will be made.
6. On-site coach will provide and collect parent permission slips for all students participating in the before and after school programs.
7. Must reserve a space for any before and after school programs using [Facilitron](#).

School Responsibilities:

1. Provide a basic set of recess equipment, enough to successfully run 5-6 organized games at recess.
2. An office workspace for the on-site coach. A place to prep in any downtime, and respond to work calls and emails.
3. Access to a computer. Whether permanently as their own for the year or in a lab.

**SAN JOSÉ UNIFIED SCHOOL DISTRICT
MASTER SERVICE AGREEMENT FOR
SPECIAL ENRICHMENT PROGRAMS
ELEMENTARY SCHOOLS**

**“EXHIBIT B”
WORKERS’ COMPENSATION CERTIFICATION**

Labor Code Section 3700 in relevant part provides that every employer except the State shall secure the payment of compensation in one or more of the following ways:

- By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.
- By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to its employees.

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work of this Agreement.

Proper Name of Consultant: Little Heroes, Inc.

Date: 9/3/2019

Signature:  F468018BCA784BC...

Print Name: Raymond Cook

Title: Director of Operations

(In accordance with Article 5 – commencing at Section 1860, Chapter 1, part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the District prior to performing any Work under this Agreement.)

**SAN JOSÉ UNIFIED SCHOOL DISTRICT
MASTER SERVICE AGREEMENT FOR
SPECIAL ENRICHMENT PROGRAMS
ELEMENTARY SCHOOLS**

**“EXHIBIT C”
CONSULTANT CERTIFICATION**

Fingerprint and Background Certification

Business entities entering into a Service Agreement with the District shall comply with Education Code sections [45125.1](#). Such entities are responsible for ensuring full compliance with the law and should therefore review all applicable statutes and regulations.

I, Raymond Cook, am (an authorized representative of/doing business as) Little Heroes, Inc., (Name of Consultant) and hereby certify that Consultant have Conducted the required criminal background check(s) of all persons who will be providing services to the San José Unified School District on behalf of this business District, and that none of those persons have been reported by the Department of Justice (“DOJ”) as having been convicted of a serious or violent felony as specified in Penal Code Sections [667.5](#) and/or [1192.7\(c\)](#). I understand that this Certificate is not to be signed and submitted until I have received clearance from DOJ regarding those persons named. Upon request, consultant will provide a list of the names of the employees who may come in contact with pupils while providing Services under this Agreement. I agree to keep this list current and to notify San José Unified School District of any additions/deletions as they occur.

Signature  F468018BCA784BC...

Date 9/3/2019

Megan's Law (Sex Offenders). I have verified and will continue to verify that the employees of the Consultant and the Subcontractor(s) under this agreement are **not** listed on California's "Megan's Law" Website (<http://www.meganslaw.ca.gov/>).

Signature  F468018BCA784BC...

Date 9/3/2019

Tuberculosis Certification. Consultant and the Consultant Parties shall at all times comply with the tuberculosis certification requirements as set forth below.

The following Consultant and/or Consultant Parties shall or may be on a District school site and have contact with District students during the term of this Agreement and, at no cost to District, they have received a tuberculosis test that complies with the requirements of California Education Code Section [49406](#).

Consultant shall maintain on file the certificates showing that the Consultant Parties were examined and found free from active tuberculosis. These forms shall be regularly maintained and updated by Consultant and shall be available to District upon request or audit.

Consultant further agrees and acknowledges that all new personnel hired after the effective date of this Agreement are subject to the tuberculosis certification requirements and shall be prohibited from having any contact with District students until the tuberculosis certification requirements have been satisfied and District determines whether any such contact is permissible.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature  F468018BCA784BC...

Date 9/3/2019

**SAN JOSÉ UNIFIED SCHOOL DISTRICT
MASTER SERVICE AGREEMENT FOR
SPECIAL ENRICHMENT PROGRAMS
ELEMENTARY SCHOOLS**

**“EXHIBIT D”
PRIVACY OF PUPIL RECORDS RIDER**

San José Unified School District (“District”) and Little Heroes, Inc. (“Consultant”) have entered into that certain Master Service Agreement for Special Enrichment Programs (“Agreement”) as of August 14, 2019, [EFFECTIVE DATE]. This Pupil Records Rider (“Rider”), executed by the District and Consultant as of [EFFECTIVE DATE, WHICH SHOULD BE THE SAME AS THE DATE ABOVE IF THE RIDER IS FOR A NEW AGREEMENT], is intended to supplement and amend the terms of the Agreement, as set forth below. This Rider concerns pupil records, as that term is defined by Education Code section [49073.1](#) (“Pupil Records”) and/or covered information, which means personally identifiable information or materials as defined by Business and Professions Code section [22584](#) (“Covered Information”).

1. **Pupil Records Property of District.** All Pupil Records are and will continue to be the property of and under the control of the District. The parties agree that as between them, all rights, including all intellectual property rights in and to Pupil Records shall remain the exclusive property of the District, and Consultant has a limited, nonexclusive license to such Pupil Records. The Agreement and Rider do not give Consultant any rights, implied or otherwise, to Pupil Records, District content, or intellectual property, except as expressly stated in the Agreement and this Rider.
2. **Pupil-Generated Content.** Notwithstanding the provisions of section 1, pupils shall retain ownership and control of pupil-generated content, if any (as that term is defined by Education Code section 49073.1(d)(4)). Consultant shall make all pupil-generated content, if any, available to the pupil who created it and provide a process by which a pupil can transfer his or her pupil-generated content to a personal account. Upon request, Consultant shall provide the District with a written description of the process it will provide to pupils in compliance with this section 2.
3. **Use of Information in Pupil Records.** Consultant may not and will not use any Pupil Record or information in a Pupil Record for any purpose other than those required or specifically permitted by the Agreement and this Rider.
4. **Personally Identifiable Information.** Consultant shall provide a process by which a pupil’s parent, legal guardian, or the eligible pupil can review personally identifiable information in the pupil’s records and correct erroneous information. Upon request, Consultant shall provide the District with a written description of the process it will provide to pupils and their parents/legal guardians in compliance with this section 4.
5. **Security and Confidentiality of Pupil Records.** Consultant will access, store and use Pupil Records in accordance with commercial best practices, including appropriate administrative, physical, and technical safeguards, to secure such data from unauthorized access, disclosure, alteration, and use. Such measures will be no less protective than those used to secure Consultant’s own data of a similar type. Without limiting the foregoing, Consultant warrants that all Pupil Records will be encrypted in transmission via web interface using SSL (Secure Socket Layer) (including via web interface) and stored at no less than 128-bit level encryption.

In addition, Consultant will use industry-standards and up-to-date security tools and technologies such as anti-virus protections and intrusion detection methods in providing services under the Agreement and/or this Rider.

Consultant will designate employees or agents it holds and will hold primarily responsible for meeting the Consultant’s duties to securely maintain and protect Pupil Records. Consultant will ensure that the designated persons have or will receive all training and information necessary to meet the Consultant’s duties to securely protect and maintain Pupil Records. The designation of employees or agents required under this section does not relieve the Consultant of any of its duties under the law or the Agreement and/or this Rider, nor relieve the Consultant of any liability for any breach thereof.

6. **Unauthorized Disclosure.** Immediately upon becoming aware of an unauthorized disclosure of Pupil Records, or of circumstances that could have resulted in unauthorized access to or disclosure or use of Pupil Records, Consultant will notify the District, fully investigate the incident, and cooperate fully with the District’s investigation of and response to the incident. Except as otherwise required by law, Consultant will not provide notice of the incident directly to parents, legal guardians, or pupils whose personally identifiable information was involved, to regulatory agencies, or to other entities, without prior written permission from the District. District may, by written request, direct Consultant to provide notice of the incident directly to parents, legal guardians or pupils whose personally identifiable information was involved, or to regulatory agencies or other entities.

**SAN JOSÉ UNIFIED SCHOOL DISTRICT
MASTER SERVICE AGREEMENT FOR
SPECIAL ENRICHMENT PROGRAMS
ELEMENTARY SCHOOLS**

**“EXHIBIT D”
PRIVACY OF PUPIL RECORDS RIDER**

7. **Retention of Pupil Records.** The Consultant hereby certifies that Pupil Records shall not be retained or available to the Consultant, including any subcontractors, partners, or associated entities of the Consultant, upon completion of the terms of the Consultant and this Rider. Notwithstanding the foregoing, Consultant may maintain pupil-generated content (as that term is defined by Education Code section 49073.1(d)(4)), if any, upon completion of the term of the Agreement and this Rider if, and only if, the parent, legal guardian, or eligible pupil chooses to establish or maintain an account with the Consultant for the purpose of storing the pupil-generated content and the Consultant receives the written permission of a pupil's parent or legal guardian to establish or maintain the pupil's account.

In furtherance of the foregoing, upon termination or expiration of the Agreement and this Rider, Consultant will ensure that all Pupil Records are securely returned or destroyed as directed by the District. Transfer to the District or a third party designated by the District shall occur within a reasonable period of time, and without significant interruption in service. Consultant shall ensure that such transfer/migration uses facilities and methods that are compatible with the relevant systems of the District or its transferee, and to the extent technologically feasible, that the District will have reasonable access to Pupil Records during the transition. In the event that the District requests destruction of any Pupil Records, Consultant agrees to securely destroy all Pupil Records in its possession and in the possession of any subcontractors or agents to which the Consultant might have transferred Pupil Records. The Consultant agrees to provide documentation of data destruction to the District.

8. **Family Educational Rights and Privacy Act.** Consultant agrees to assist District in maintaining the privacy of Pupil Records as may be required by State and Federal law, including but not limited to the Protection of Pupil Rights Amendment (PPRA), the Children's Online Privacy Protection Act (COPPA), the Family Educational Rights and Privacy Act (FERPA), and the Student Online Personal Information Protection Act (SOPIPA).

Consultant will provide access to Pupil Records, including deidentified information, only to its employees and subcontractors who need to access the data to fulfill Consultant obligations under the Agreement and/or this Rider. Consultant will ensure that employees and subcontractors who perform work under the Agreement and/or this Rider have read, understood, and received appropriate instruction as to how to comply with the data protection provisions of this Rider. Consultant will use the education records only for the purpose of fulfilling its duties under the Agreement and/or this Rider for District's and its pupils' benefit, and will not share such data with or disclose it to any third party except as provided for in this Rider, required by law, or authorized in writing by the District.

If Consultant will have access to “education records” for the District's pupils as defined under FERPA, Consultant acknowledges that, for the purposes of the Agreement and/or this Rider, it will be designated as a “school official” with “legitimate educational interests” in the District education records, as those terms have been defined under FERPA and its implementing regulations, and the Consultant agrees to abide by the FERPA limitations and requirements imposed on school officials. Consultant will use the education records only for the purpose of fulfilling its duties under the Agreement and/or this Rider for District's and its pupils' benefit, and will not share such data with or disclose it to any third party except as provided for in this Rider, required by law, or authorized in writing by the District.

9. **No Targeted Advertising.** Consultant will not use Pupil Records for advertising or marketing purposes unless such use is specifically authorized by this Agreement or otherwise authorized in writing by the District. Consultant will not use Pupil Records to engage in targeted advertising. Consultant is prohibited from mining Pupil Records for any purposes other than those agreed to by the parties.
10. **Covered Information.** To the extent Consultant is an operator of an Internet Web site, online service, online application, or mobile application, with actual knowledge that the site, service, or application is used primarily for K-12 school purposes and was designed and marketed for K-12 school purposes, Consultant agrees to comply with all of the requirements of Business and Professions Code section 22584. Consultant agrees not to engage in targeted advertising as described in section 22584. Consultant agrees not to use information, including persistent unique identifiers, created or gathered by the Consultant's site, service, or application, to amass a profile about a student except in furtherance of District's purposes. Consultant further agrees to that it will not sell, disclose, or otherwise use Covered Information without the prior written consent of the District. Consultant will implement and maintain reasonable security procedures to protect Covered Information and fulfill all other requirements of Business and Professions Code section 22584.

**SAN JOSÉ UNIFIED SCHOOL DISTRICT
MASTER SERVICE AGREEMENT FOR
SPECIAL ENRICHMENT PROGRAMS
ELEMENTARY SCHOOLS**

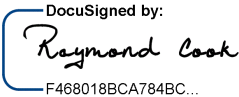
**“EXHIBIT D”
PRIVACY OF PUPIL RECORDS RIDER**

11. **Compliance with Law.** In the event of a conflict between this Rider and the Agreement, the terms of this Rider shall govern. This Rider is intended to comply with Education Code section 49073.1 and Business and Professions Code section 22584. In addition to any other penalties, if the Agreement and this Rider, taken together, fail to comply with Education Code section 49073.1 and Business and Professions Code section 22584, the Agreement shall be rendered void if, upon notice and a reasonable opportunity to cure, the noncompliant party fails to come into compliance and cure any defect. Written notice of noncompliance may be provided by any party to the Agreement. All parties subject to an Agreement voided in accordance with this paragraph and Education Code section 49073.1 or Business and Professions Code section 22584 shall return all Pupil Records and Covered Information in their possession to the District. The term of this Rider is coextensive with the term of the Agreement.

IN WITNESS WHEREOF, the parties have, by their duly authorized representatives, executed this Rider, in duplicate, as of the day and year first above written.

Little Heroes, Inc.

Dated: 9/3/2019

By:  DocuSigned by:
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Print Name: Raymond Cook

Title: Director of Operations